

Congress, Call Upon President Obama to Interpret and Execute Vital Sections of the Civil Service Reform Act of 1978

The fundamental purpose of the Civil Service Reform Act of 1978 (CSRA), the most sweeping reform of the federal civil service since its creation in 1883, was to create a statutory framework and implementing agencies so that federal employees could perform their duties in a trustworthy fashion per the merit system principles while being adequately protected from reprisal and other prohibited personnel practices (PPP's).^{1 2}

We are concerned that the U.S. Office of Special Counsel (OSC), a federal law enforcement agency created for purpose of protecting federal employees from reprisal and other PPP's, largely interpreted away its obligatory duties to do so at its creation in 1979. We are concerned that the U.S. Merit Systems Protection Board (MSPB), also at its creation in 1979, interpreted away its obligations to conduct oversight of OSC as well as oversight of agency heads obligations to prevent PPP's.

The undisputed facts include: 1) OSC has investigated over 50,000 complaints alleging over 100,000 PPP's since 1979 but its public records indicate it has not reported a single PPP to the involved agency head; 2) MSPB has not and cannot report to Congress and the President whether federal employees - anywhere in the Executive Branch, including FBI, CIA, other intelligence agencies or the White House - are adequately protected from PPP's; and 3) agency heads cannot tell their employees they are adequately protected from PPP's - i.e. that the agency heads are, in fact, "preventing PPP's."

When federal employees are not adequately protected from reprisal and other PPP's, corruption and dysfunction takes root and flourishes in federal workplaces, leaving America diminished and more threatened.

President Obama can direct the Office of Legal Counsel (OLC) of the Department of Justice to issue opinions on three vital, interlocking, sections of law created by the CSRA by which OSC, MSPB and agency heads execute their joint mandate to ensure federal employees are adequately protected from reprisal and other PPP's.³ If our concerns are substantiated, it is GOOD NEWS for America - a previously unidentified cause of much which has befallen and besets America has been found and can be readily fixed. If our concerns are dispelled, both OSC and MSPB are overdue for Congressional reauthorization, which provides an opportunity to change these laws.

Americans' trust in the federal government and its agencies is at an all-time low.⁴ Only 35% of federal employees now believe promotions in their agencies are based on merit.⁵ By law, the Office of Legal Counsel is the final interpreter, within the Executive Branch, for laws impacting more than one agency.⁶ President Obama, along with his agency heads, have the statutory authority to request interpretations of these 3 sections of law.⁷

If Congress, per its Constitutional oversight responsibility, requests this of President Obama, it

will happen - how could President Obama be against it?

1. The nine “merit system principles” are defined at 5 U.S.C. §2301(b), while the 12 types of PPP’s are defined at §2302(b).
2. See 5 USC §1101 “endnotes,” which cite the “CSRA Findings and Statement of Purpose”
3. Specifically, 5 U.S.C. §§1204(a)(3), 1214(e), and 2302(c).
4. “Better, Not Smaller” by Center for American Progress <www.americanprogress.org>.
5. See question 21 of 2010 OPM federal employee survey <www.fedview.opm.gov/>
6. See www.justice.gov/olc/
7. See 28 U.S.C. §§510-512 and 28 C.F.R. §0.25